REMARKS/ARGUMENTS

The Office Action mailed June 22, 2005 and the Advisory Action mailed November 3, 2005 have been reviewed and carefully considered. Claims 3, 7-10, 12-13, 19, 21, 24, 26-38, 59, and 79 are canceled. Claims 1, 6, 11, 14, 20, 23, 40, 52-53, 56-57, and 69 have been amended and claim 80 has been added. Claims 1, 2, 4-6, 11, 14-18, 20, 22-23, 25 39-58, 60-78, and 80 are pending in this application, with claims 1, 14, 20, 23, 40, 63, 69 and 72 being the only independent claims. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

The reply in response to the Final Office Action filed by Applicant on September 22, 2005 has been considered by the Examiner. However, the Examiner has maintained his rejections of the claims.

Claims 1, 2, 4, 5, 14-16, 41-53, 62, 65, 68-71, and 76-78 stand rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 6,192,340 (Abecassis) and Musicbox Jukebox software, in view of U.S. Patent No. 6,470,378 (Tracton) and U.S. Patent No. 6,167,251 (Segal) and further in view of U.S. Patent No. 6,356,971 (Katz).

Claims 6, 11, 17-18, 66, 67, 74, and 75 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis, Musicbox Jukebox software, in view of Tracton and Segal, and further in view of U.S. Patent No. 6,199,076 (Logan).

Claims 20, 22, 23, 25, 36, 40, 54-58, 61, and 79 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis, Musicbox Jukebox software, in view of Tracton and Segal, and further in view of U.S. Patent No. 6,188,398 (Collins-Rector).

Claims 26-35, 39, and 59-60 stand rejected under 35 U.S.C. §103 as unpatentable over Logan in view of Abecassis and Musicbox Jukebox software in further view of Segal and Tracton.

Claims 64 and 73 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis and Musicbox Jukebox software in view of Tracton and Segal and further in view of U.S. Patent No. 6,650,902 (Richton).

Claims 63 and 72 are allowed.

Independent Claims 1, 14, and 69

Each of independent claims 1, 14, and 69 has been amended to recite "presenting, by the virtual broadcast device, the virtual broadcast to the user", "applying a ranking, by a user using the virtual broadcast device, to at least one of the songs in the virtual broadcast while the at least one of the songs is being presented in said step of presenting, the user ranking influencing the probability of playing the at least one song in the virtual broadcast", and "adjusting, by the virtual broadcast device, the virtual broadcast in accordance with the user ranking so that the number of times that at least one song is played within a predetermined time period is adjusted based on the user ranking".

The amendment clarify that the user ranking is not merely an order of a playlist. Rather it is an indication to the algorithm which influences how often the algorithm will play the song within a predetermined time period, i.e., repetitions per hour. Support for this limitation is found in the specification at page 13, lines 16-18.

The Examiner acknowledges that Abecassis, MusicMatch, Segal, and Tracton fail to disclose the steps of applying a ranking and adjusting the virtual broadcast, as expressly recited in

independent claim 1. The Examiner refers to col. 7, lines 57-61 of Katz as disclosing this limitation. The creation of a playlist disclosed by Katz involves a user picking songs that the user wants in the playlist. That is, the user selects song and the computer makes a playlist in the order that the user selects. While this may be considered a type of ranking, this disclosure of Katz fails to disclose, teach, or suggest "applying a ranking, by a user using the virtual broadcast device, to at least one of the songs in the virtual broadcast while the at least one of the songs is being presented in said step of presenting", "the user ranking influencing the probability of playing the at least one song in the virtual broadcast", and "adjusting, by the virtual broadcast device, the virtual broadcast in accordance with the user ranking so that the number of times that at least one song is played within a predetermined time period is changed based on the user ranking", as now expressly recited in independent claims 1, 14, and 69. Accordingly, it is respectfully submitted that claims 1, 14, and 69 are allowable over the prior art of record.

The Examiner has previously rejected the limitations of claim 66 which recited that the step of adjusting organizes the virtual broadcast so that songs with a higher ranking are played more often than songs with a lower ranking. This limitation is not exactly the same as the new limitations of independent claims 1, 14, and 69. However, it is similar and we wanted to address the Examiner's statement. The Examiner alleges that playing higher ranked songs more often is known because that is what radio broadcasters do. Applicants agree that radio broadcaster play popular songs more often than unpopular songs. However, the amended independent claims 1, 14, and 69 do not merely recite that the higher ranked songs are played more often. The independent claims 1, 14, and 69 further require that (1) the user ranking of a song is input to the virtual broadcast device during presentation of the song and (2) a previously generated virtual broadcast is adjusted based on the user ranking. It is respectfully submitted that none of the prior art cited by the Examiner

discloses ""applying a ranking, by a user using the virtual broadcast device, to at least one of the songs in the virtual broadcast while the at least one of the songs is being presented" and "adjusting, by the virtual broadcast device, the virtual broadcast in accordance with the user ranking so that the number of times that at least one song is played within a predetermined time period is changed based on the user ranking", as now expressly recited in independent claims 1, 14, and 69.

In view of the above amendments and remarks, it is respectfully submitted that independent claims 1, 14, and 69 are now allowable over the prior art of record.

Independent claims 20, 23, and 40

In the Advisory Action, the Examiner states that the independent claims 20, 23, and 40 merely require that an updated or revised broadcast is generated. Each of these claims has been amended to clearly recite that the additional news story is incorporated into "the virtual broadcast", i.e., the existing virtual broadcast.

The Examiner, in the final Office Action, states that col. 9, lines 51-62 of Logan discloses downloading additional news items and generating an updated broadcast with the new content. As discussed in our previous argument, each download request in Logan creates a new program sequence as shown in Fig. 2 of Logan and description beginning at col. 8, line 12. This portion of Logan does not teach or suggest that additional information to be broadcast is incorporated in an existing virtual broadcast or program, as now expressly recited in independent claims 20, 23 and 40. Abecassis, MusicMatch, Segal, and Tracton also fail to disclose this recited feature. Accordingly, it is respectfully submitted that independent claims 20, 23, and 40 are allowable over Logan, Abecassis, MusicMatch, Segal, and Tracton.

Dependent claims

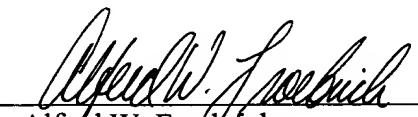
Dependent claims 2, 4-6, 11, 15-18, 22, 25 39, 41-58, 60-62, 64-68, 70-71, 73-78, and 80, each being dependent on one of independent claims 1, 14, 20, 23, 40, 63, 69 and 72, are allowable for at least the same reasons expressed above with respect to independent claims 1, 14, 20, 23, 26, 40, 63, 69 and 72, as well as for the additional recitations contained therein.

Dependent claim 80 recites "establishing a connection to a web site and downloading updated news stories at periodic intervals, incorporating the updated new stories in the virtual broadcast by replacing older news stories in the virtual broadcast". Support for this limitation is found in the specification at page 15, lines 14-17. It is respectfully submitted that none of the prior art of record discloses this limitation.

In view of all the above amendments and remarks, the application is deemed to be in condition for allowance and notice to that effect is solicited.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

By 

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